

Reply to Final Under 37 CFR §1.116
Attorney Docket No.: NOR-091 (11499TCUS01U)
U.S. Serial No.: 09/645,186

REMARKS

Applicants have carefully reviewed and considered the current Office Action and the reference(s) cited therein. No claims are herein amended; no claims are herein canceled; and no claims are herein added. As a result, Claims 1-2, 5, 8, 13-14, 20-21, 24, 27, 32-33, 39, 40, 43, 46, and 51-54 are now pending in this application.

Rejection of Claims 1-2, 5, 8, 13-14, 20-21, 24, 27, 32-33, 39-40, 43, 46, and 51-54 under 35 U.S.C. §103

The Examiner has rejected Claims 1-2, 5, 8, 13-14, 20-21, 24, 27, 32-33, 39-40, 43, 46, and 51-54 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5, 687, 167 issued to Bertin *et al* ("Bertin") in view of U.S. Patent Application 2002/0156914 issued to Lo *et al*. ("Lo"). Applicants respectfully traverse this rejection.

With regard to the rejection of Claims 1, 13, 20, 32, 39, and 53 (i.e., the independent claims), the Examiner states: "While Bertin *et al* does discuss the consideration of the number of hops in forming the initial connection (see col 11 lines 34+), Bertin *et al* does not teach taking this into consideration when preempting the other connections in order to add bandwidth to the existing connection." The Examiner combines Bertin with Lo, specifically citing paragraphs 73 and 85:

"These increases and decreases in bandwidth allocation are restricted to remain within an operating range, which is determined by the user-defined policies (or SLAs)." See page 5, par 73. See also the LBWA description in par 85.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have placed an operating range (ie, cost limiting factor) on the system of Bertin in light of the teachings of Lo *et al* in order to prevent the allocation of bandwidth from another connection when the other connection is too costly (ie, in Bertin *et al*, when the other connection would have too many hops to justify the use of this additional bandwidth for the connection in this manner).

Applicants disagree with the Examiner assessment of the teachings of both Bertin and Lo taken alone or in combination with each other. Applicants agree with the Examiner's assessment that Bertin does not teach considering hop count when preempting the other connection in order to add bandwidth to the existing connection. Moreover, Bertin does not suggest a motivation for considering hop count when preempting other connections. Lo adds nothing to Bertin even if properly combinable. In paragraphs 65 through 87 of Lo, there is no discussion of cost (e.g., hop

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count) at all. While Lo does discuss increasing, decreasing, and redistributing bandwidth, this discussion does not refer to cost. The operating range of paragraph 73 that the Examiner cites refers to a range of bandwidths determined by Service Level Agreements ("SLAs") not to a range of cost limiting factors as asserted by the Examiner.


Neither Bertin nor Lo, taken together or alone, teach or suggest taking network resource from a network path having a priority lower than the predetermined priority when no network path having sufficient network resource and acceptable cost is selected as required by the present claims. Accordingly, the present claims are patentable over Bertin in view of Lo. Applicants respectfully request that the current rejections be withdrawn.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. If the Examiner believes that a telephone conversation with the Applicants' representative would facilitate prosecution of this application in any way, the Examiner is cordially invited to telephone the undersigned at (508) 303-2003. If necessary, please apply any additional fees, or credit overpayments, to Deposit Account 50-2295.

Respectfully submitted,

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The undersigned hereby certifies that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service, with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Stanley K. Hill

Date: April 20, 2006

